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Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 31, 2009

Colonel David C. Weston  
Galveston District Commander  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229

Dear Colonel Weston:

I am writing in response to your January 8, 2009 letter to the Texas Commission on Environmental Quality (TCEQ) regarding U.S. Army Corps of Engineers' (Corps) permit number SWG-2007-01865 authorizing sand mining on the west side of the San Jacinto River north of Interstate Highway 10. The TCEQ last certified this Section 401 permit during the second permit amendment in 1996. Subsequently, the Corps issued the fourth amendment on December 27, 2007, however there was no coordination with the respective state agencies.

In TCEQ's October 29, 2008 response to your original August 11, 2008 letter on this subject, the agency requested that the Corps suspend or revoke permit SWG-2007-01865. Suspension/revocation of this permit was requested because of the potential for violations of Texas Surface Water Quality Standards resulting from the resuspension of dioxin during the sand mining authorized by this permit. The TCEQ anticipated this request would qualify as a third party request under 33 Code of Federal Regulations (CFR) 325.7, based upon a change of circumstances related to the authorized activity. Specifically, these changes in circumstances include the listing of the San Jacinto River Waste Pits on the United States Environmental Protection Agency's National Priority List and data (Attachment B) developed by the TCEQ's Total Maximum Daily Load program regarding dioxin contamination in this area.

The TCEQ is very concerned about the continued authorization of activities authorized by SWG-2007-01865 and reiterates the request for the Corps to suspend or revoke the permit. Therefore, the TCEQ suspends the 401 certification of permit SWG-2007-01865 until 30 days after TCEQ receives notice of the Corps' decision under the 33 CFR 325.7 process. Please notify us of your decision on the permit.

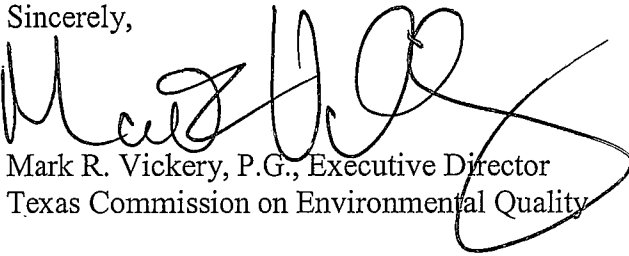
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The TCEQ remains committed to the partnership of combining the responsibilities of both agencies into a single permit decision. I have included a presentation (Attachment A) and data developed by the TCEQ's Total Maximum Daily Load program regarding dioxin contamination in this area. We would be glad to provide additional information on specific dioxin congeners if needed. Should you have any questions regarding this or any other information, please contact L'Oreal Stepney of the TCEQ's Water Quality Division at (512) 239-1321.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark R. Vickery', with a large, stylized flourish extending from the end of the signature.

Mark R. Vickery, P.G., Executive Director  
Texas Commission on Environmental Quality

Enclosures

cc: Carter Smith, Executive Director, Texas Parks and Wildlife, 4200 Smith School Road, Austin, Texas 78744-3291  
Sharon Parrish, U. S. Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733  
Sam Watson, U.S. Army Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553-1229